

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

CHRISTIAN VELAZQUEZ,

Plaintiff,

v.

APL CARGO, INC.,

Defendant.

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CAUSE NO. : 5:24-CV-00027

JURY DEMAND

DEFENDANT APL CARGO, INC.'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE THAT, pursuant to 28 USC §§ 1441 and 1446, Defendant APL Cargo, Inc. ("APL") hereby files this Notice of Removal as to the state court action styled *Christian Velazquez vs. APL Cargo, Inc.*, from the 76/276th Judicial District Court in Titus County, Texas, to the United States District Court for the Eastern District of Texas, Texarkana Division. Defendant is entitled to removal because diversity jurisdiction lies in the United States District Court for the Eastern District of Texas. Diversity jurisdiction exists where there is complete diversity between the Plaintiff and Defendant, and where the amount in controversy exceeds \$75,000.00. 28 U.S.C. § 1332(a). In this matter, there is complete diversity of jurisdiction, and the amount in controversy exceeds \$75,000.00.

I. Documents Attached Pursuant to L.R. 81

1. Pursuant to L.R. 81(c)(1), attached as Exhibit A is an index of all state court documents and their filing dates.

2. Pursuant to L.R. 81(c)(1), a copy of each document in the state court action is attached as Exhibits A-1 through A-5.

3. Pursuant to L.R. 81(c)(1), a list of all parties to the case, their party type, and their current status, is attached as Exhibit B.

4. Pursuant to L.R. 81(c)(2), a copy of the completed Civil Cover Sheet is attached as Exhibit C, respectively.

5. Pursuant to L.R. 81(c)(3) a complete list of attorneys involved is attached as Exhibit D, Supplement Civil Cover Sheet.

6. Pursuant to L.R. 81(c)(4), a record of which parties have requested jury trial is attached as Exhibit B.

7. Pursuant to L.R. 81(c)(5), the name and address of the court from which the case was removed is attached as Exhibit B.

8. Pursuant to L.R. 81(c)(1), a copy of the Certificate of Interested Parties attached hereto as Exhibit E.

II. This Notice Complies with the Procedural Requisites of 28 U.S.C. §§ 1441 and 1446

9. On January 26, 2024, Plaintiff Christian Velazquez filed a civil suit against APL Cargo, Inc. in the 76th/276th Judicial District Court in Titus County, Texas captioned *Christian Velazquez v. APL Cargo, Inc.* under Cause No. 43409.

10. Plaintiff's Original Petition stems from an incident that allegedly occurred on May 11, 2023, along Interstate 130. Plaintiff alleged that he was injured when conducting a roadside repair underneath a tractor when Defendant's driver released the tractor's brake, resulting in the tractor moving forward and injuring Plaintiff. See Exhibit A-2.

11. APL was served on January 29, 2024. See Exhibit A-5.

12. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(1), as it is filed within thirty days of when Defendant first received a copy of Plaintiff's Original Petition.

13. Venue is proper in this Division and District pursuant to 28 U.S.C. §1441(a) because the State Court Action was filed in Titus County, Texas, which is within the Texarkana Division of the United States District Court for the Eastern District of Texas.

14. As required by 28 U.S.C. § 1446(d) Defendant will file the attached Notice of Filing of Notice of Removal with the 76th/276th Judicial District Court in Titus County, Texas, on the date this Notice of Removal is filed. *See* Exhibit D, Notice of Filing of Notice of Removal.

III. This Court Has Diversity Jurisdiction Over This Case

15. Diversity jurisdiction exists where there is complete diversity between Plaintiff and Defendant and where the amount in controversy exceeds \$75,000.00. *See* 28 U.S.C. §1332(a). There is complete diversity between Plaintiff and Defendant.

16. Plaintiff is a citizen of the State of Texas as he has a fixed residence located in Titus County, Texas at which Plaintiff intends to remain indefinitely. *See* Exhibit A-2, Plaintiff's Original Petition at ¶ 3.

17. Defendant APL Cargo, Inc. is a citizen of the State of Indiana as it is incorporated in the State of Indiana with its principal place of business located at 11738 U.S. Highway 24, Wolcott, Indiana 47995. *See* Exhibit A-2.

18. Because Plaintiff is a citizen of Texas and Defendant is a citizen of Indiana, there is complete diversity of citizenship between Plaintiff and Defendant as required by 28 U.S.C. § 1332(a),(c).

19. Plaintiff alleges in his Original Petition he is seeking actual damages in an amount "over \$1,000,000.00" *See* Exhibit A-2 at ¶ 2. Accordingly, Plaintiff has asserted alleged damages in excess of the \$75,000.00 minimum jurisdictional amount required by 28 U.S.C. § 1332.

20. As there is complete diversity between Plaintiff and Defendant, and the amount in controversy exceeds the sum of \$75,000.00, this case satisfies the jurisdictional requirements set forth in 28 U.S.C. §1332.

WHEREFORE, PREMISES CONSIDERED, Defendant, pursuant to the foregoing Statutes, removes this action for trial from 76/276th Judicial District Court in Titus County, Texas, styled *Christian Velazquez v. APL Cargo, Inc.*, in Cause No. 43409, to this Court.

Respectfully submitted,

MACDONALD DEVIN MADDEN
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By: /s/ Jennifer A. Cheek
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CERTIFICATE OF SERVICE

On the 26th day of February 2024, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Eastern District of Texas, using electronic case filing system. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Jennifer A. Cheek

JENNIFER A. CHEEK